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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,186	02/25/2004	Hugh S. West JR.	14000.8.1.1	2078

22913 7590 07/20/2007

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(F/K/A WORKMAN NYDEGGER & SEELEY)  
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SALT LAKE CITY, UT 84111

EXAMINER
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PRIDDY, MICHAEL B

ART UNIT	PAPER NUMBER
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3733

MAIL DATE	DELIVERY MODE
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07/20/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/786,186

Applicant(s)

WEST ET AL.

Examiner

Michael B. Priddy

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17, 20 and 25-28 is/are pending in the application.
- 4a) Of the above claim(s) 2-6 and 15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 7-14, 16, 17, 20 and 25-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Election/Restrictions***

Claims 2-6 and 15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

### ***Claim Objections***

Claims 13, 20 and 28 are objected to because of the following informalities: in line 6 of each of these claims, "the" should be --that-- or --which--. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 27 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 27 recites the limitation "said means for separating and organizing a plurality of suture strands" in line 2. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

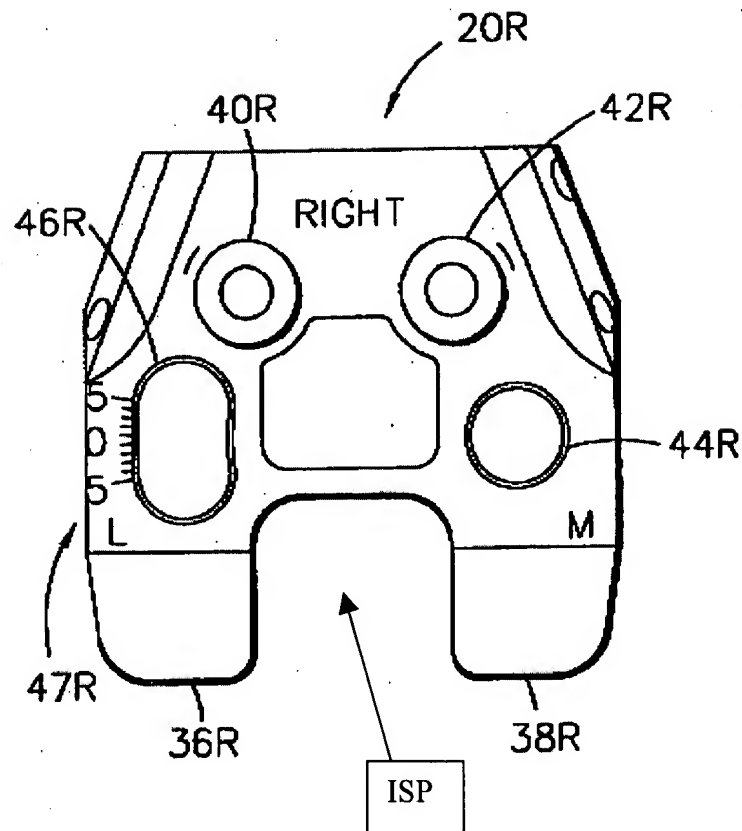
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 7-10, 13, 14, 16, 17, 20, 25, 26 and 28 are rejected under 35

U.S.C. 102(b) as being anticipated by Axelson, Jr. et al. (U.S. 5,860,980), with reference to the annotated figure below. Axelson, Jr. teach a system for use in joint repair surgery comprising: a graft tensioning device e.g. 10 configured so as to apply a desired tensile load to one or more soft tissue grafts emerging from a bone tunnel in a patient's limb and attached to a plurality of suture strands that extend away from the bone tunnel; and a device e.g. 20 capable of suture separation and organization comprising a body having a proximal side and a distal side; a first pair of suture retention recesses or protrusions e.g. 44/46 disposed on a proximal side of said body and adapted to reliably retain a first plurality of tensioned suture strands or groups of tensioned suture strands extending away from a bone tunnel in a desired spaced-apart orientation on either side of the bone tunnel when said body is attached to a graft tensioning device during joint repair surgery in order that such tensioned suture strands to not inadvertently slip out and move towards each other so as to block insertion of an

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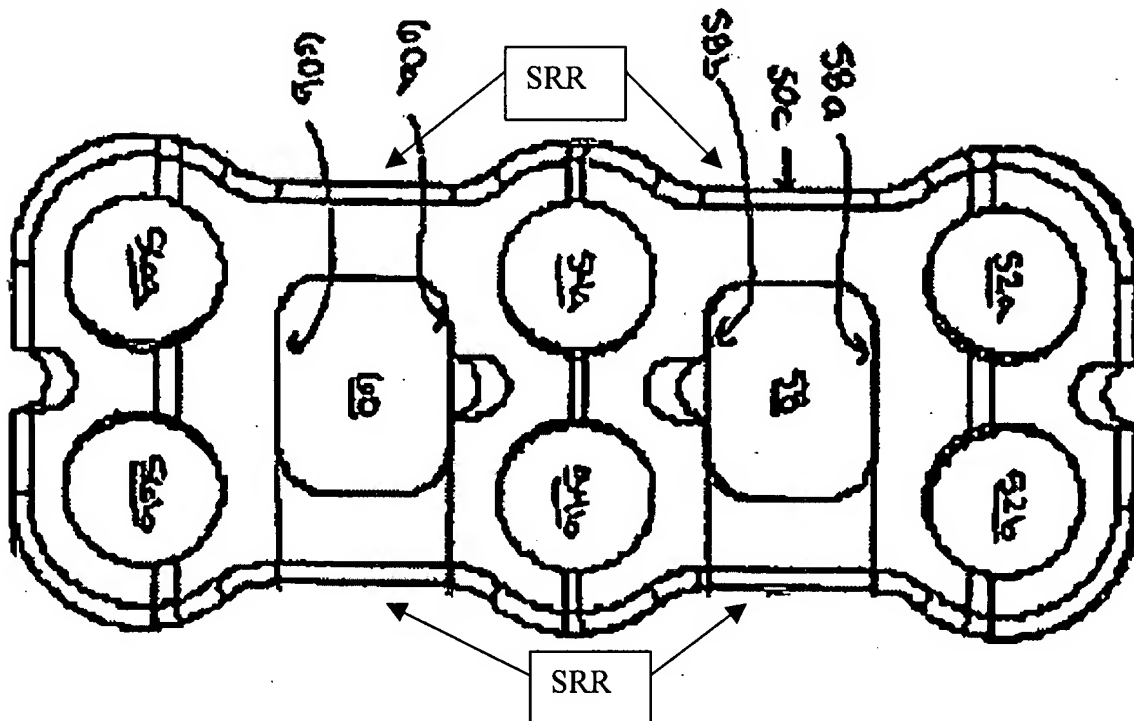
interference screw therebetween; a second pair of suture retention recesses or protrusions e.g. 36/38 disposed on a distal side of said body and adapted to reliably retain a second plurality of tensioned suture strands or groups of tensioned suture strands extending away from a bone tunnel in a desired spaced-apart orientation on either side of the bone tunnel when said body is attached to a graft tensioning device during joint repair surgery in order that such tensioned suture strands to not inadvertently slip out and move towards each other so as to block insertion of an interference screw therebetween; at least one passage e.g. 40/42, positioned between said proximal and distal sides of said body, for mating with a corresponding post of a graft tensioning device and preventing substantial movement between the body and graft tensioning device during joint repair surgery; and a passageway or recess e.g. ISP, positioned between said proximal and distal sides of said body, through which an interference screw can be inserted during joint repair surgery.



Claims 1, 7, 11, 12, 25 and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Fanger et al. (U.S. 2004/0204717). Fanger et al. teach a device e.g. 50 capable of suture separation and organization comprising a body having a proximal side and a distal side; four suture retention recesses e.g. SRR being positioned on a perimeter of said body so as to separate and organize four suture strands or groups of suture strands into four spaced-apart quadrants; at least one passage e.g. 52a/52b/54a/54b/56a/56b, positioned between said proximal and distal sides of said body, capable of mating with a corresponding post of a graft tensioning device and preventing substantial movement between the body and graft tensioning device during joint repair surgery; and a passageway or recess e.g. 58/60, positioned between said

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proximal and distal sides of said body, through which an interference screw can be inserted during joint repair surgery.



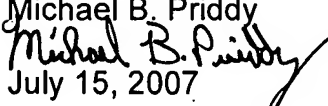
### **Conclusion**

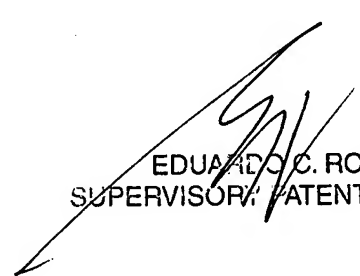
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael B. Priddy whose telephone number is 571-272-2243. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eduardo Robert can be reached on 571-272-4719. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Michael B. Priddy  
  
July 15, 2007

  
EDUARDO C. ROBERT  
SUPERVISOR, PATENT EXAMINER